IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants :	Abecassis
Application No. :	10/074318
Filed :	02/11/2002
Titled :	Replaying A Video With Changed Audio

Group Art Unit :	2621
Examiner :	Nigar Chowdhury

APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This appeal brief is submitted to the Honorable Board of Patent Appeals and Interferences in support of an appeal from the Office Action dated 09/24/2007 rejecting claims 21-40. The requisite notice, filing, and fees for submitting this appeal brief, a terminal disclaimer and fee, and the petition for extension of time and fee is enclosed with this appeal brief. The Applicant is filing this appeal brief *pro se*, and respectfully request any assistance that the PTO Manual of Patent Examining Procedure may require or suggest that the Examiner provide.

REAL PARTY IN INTEREST

Applicant ("Appellant") is the real party in interest.

RELATED APPEALS AND INTERFERENCES

There are no known related appeals and interferences. Accordingly, the present brief does not include the appendix that would have otherwise been required under 37 CFR 47.37(c)(1)(x).

STATUS OF CLAIMS

The instant application is a division of U.S. patent application 09/190,773, filed 11/12/1998, now U.S. Patent 6,408,128 issued 06/18/2002. The application included a Preliminary Amendment canceling claims 1-20 and adding claims 21-40.

Responsive to a first Office Action mailed 12/29/2006, claims 21-30 and 32-40 were amended by an Amendment And Reply dated 06/28/2007.

An Office Action, mailed 09/24/2007, ("Office Action") finally rejected claims 21-40 .

Claims 21-40 are pending in the present application. Claims 21-40 are appealed from the Examiner to the Board of Patent Appeals and Interferences.

STATUS OF AMENDMENTS

No amendments have been filed subsequent to the final rejection of 09/24/2007.

ARGUMENT

The Office Action rejected Claims 21-40 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1,6 of US Patent No. 6,408,128 in view of US Patent No. 5,400,077 by Cookson et al. ("Cookson") and US Patent No. 6,493,506 by Schoner et al. ("Schoner"). The Office Action also rejected Claims 21-40 under 35 U.S.C. 103(a) as being unpatentable over Cookson in view of Schoner.

The Office Action, admitting that Cookson fails to disclose an element of the claim, relies on Schoner which was not previously cited. The Office Action abandons the rejection of the original claims 21-40 under 35 U.S.C. 102(b) as being anticipated by Cookson, and introduces a new rejection under 35 U.S.C. 103(a) as being unpatentable over Cookson in view of Schoner. While the Office Action requires a reliance of the newly introduced art of Schoner, and a 35 U.S.C. 103(a) rejection, the Office Action does not provide justification for its finality. Appellant respectfully requests that the finality of the Office Action be reversed.

While appellant respectfully disagrees with the Office Action arguments in support of the obviousness-type double patenting rejection of claims 21-40, appellant with this response, and without prejudice or disclaimer to the underlying subject matter, is filing a terminal disclaimer relative to appellant's '128 patent. Accordingly, appellant respectfully requests that the Office Action's rejection of claims 21-40 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims of the '128 patent in view of Cookson and Schoner be withdrawn, and if not withdrawn reversed.

It is respectfully submitted that the Office Action's rejection of claims 21-40 under 35 U.S.C. 103(a) as being unpatentable over Cookson in view of Schoner, ignores limitations in the claims, fails to appreciate the claimed operational functional integration between the various elements of the claims, relies on Cookson in view of Schoner to teach limitations which neither Cookson and Schoner alone or in combination teach or render obvious, and requires a combination

of Cookson and Schoner that is improper and not supported by the argument that the Office Action offers.

Accordingly, for these reasons and the reasons that follow, appellant respectfully requests that the Office Action's rejection of claims 21-40 under 35 U.S.C. 103(a) as being unpatentable over Cookson in view of Schoner should be reversed.

INDEPENDENT CLAIMS

The application teaches, for example, that:

In an RCA RC5200P DVD player, the infrared remote control comprises the following keys/buttons: ANGLE, AUDIO, SUBTITLE, ON-OFF (subtitle on/off), SKIP REV, REV, and PLAY. In a situation where the viewer did not understand the dialogue of a segment of a motion picture, the viewer would have to, for example: i) press the subtitle ON-OFF button to turn on the subtitle; ii) press the SKIP REV button to skip backwards to the beginning of the current chapter; and iii) following the replaying of the segment, press the subtitle ON-OFF button to turn off the subtitle display. Alternatively, the viewer could: i) press the subtitle ON-OFF button to turn on the subtitle; ii) press the REV button to rewind the video to the appropriate point; iii) press the PLAY button to stop the rewinding of the video and cause the video to play the segment; and iv) following the replaying of the segment, press the subtitle ON-OFF button to turn off the subtitle display.

The common problems with both of these methods are: i) the number of steps that are required; ii) the video is likely to be rewinded substantially past the amount usually desired in a significant percentage of the cases; and iii) the loss of attention to the playing of the video required to turn off the subtitle display. In the case of utilizing the SKIP REV button, the excessive rewinding problem results from the fact that the SKIP REV function is controlled by segment definitions (chapters) averaging three to four minutes in duration. In the case of utilizing the REV button, the excessive rewinding problem results from the velocity of the rewinding function in a DVD player.

In view of the foregoing and other shortcomings of the prior art, it is an object to enhance the viewing of a video by providing an elegant means and method for replaying for a viewer a non-understood segment of the video. Accordingly, a Multimedia Player's software is enhanced to serve those situations in which a viewer has failed to understand the dialogue, i.e. "What was said?".

A remote control capable of activating a replay function comprises a WHAT? button, key, or other replay function key or means, to enable a viewer by activating the replay function to automatically cause the system to: i) rewind or skip backwards the playing of the video a system default or a viewer specific previously defined amount, e.g. 20 seconds; ii) turn on the subtitle to a system default or a viewer specific previously selected subtitle language, e.g. English; iii) turn off the subtitle at either the point the WHAT? button was pressed or at some viewer specific previously defined point with respect to the time at which the WHAT? button was pressed, e.g. five seconds prior to, or after, the point the WHAT? button was pressed; and iv) increase the audio/dialog volume during the segment replayed.

Thus, advantageously, by, for example, the pressing of a single WHAT? button or

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issuing, a single word command, a viewer accomplishes a function which cannot be accomplished, as efficiently and elegantly, with the pressing of at least three buttons in, for example, the operation of the RCA RC5200P DVD player. [Specification page 67 line 5 to page 68 line 11.]

With respect to the subject matter claimed, Cookson adds nothing to the teachings or capabilities of the RCA RC5200P DVD player. The teachings of Cookson's do not overcome the deficiencies, explained in the application, of the RCA RC5200P DVD player.

The application explicitly teaches that even if each of the underlying capabilities, e.g., replay of video and change of audio, are present in the applied art, their separate sequential operation does provide the advantages of the system and methods claimed. The Office Action has ignored that each of the claim's synergistic integration of elements provide advantages that are more than the actual and predictable use of the prior-art elements according to their established functions.

Outstanding independent claim 21, for example recites:

"A method of replaying a portion of a video comprising the steps of:
receiving, during a playing of a video, a request to replay a portion of the video, the portion of the video being responsive to a preestablished amount of time;
changing, responsive to the replay request and to a preestablished audio preference, an audio of the video;
playing, responsive to the replay request, the portion of the video and the changed audio; and
discontinuing, responsive to the replay request, the playing of the changed audio."

Each of the outstanding independent claims (i.e., claims 21, 25, 30, 35, and 38) recites: *"receiving, during a playing of a video, a request to replay a portion of the video"* and *"changing, responsive to the replay request and to a preestablished audio preference, an audio of the video"*.

The Office Action rejection of claims 21-40 under 35 U.S.C. 103(a) relies entirely on Cookson, at FIG. 2 (79), and Col 25 lines 9-20, and 32-40 to disclose or render obvious *"receiving, during a playing of a video, a request to replay a portion of the video"* and *"changing, responsive to the replay request and to a preestablished audio preference, an audio of the video"* as each of the outstanding independent claims recites. [Office Action Page 10]

Cookson's Fig. 2 item 79 is a user interface typically a keyboard. "The user of the player communicates with the master controller via an interface 79, typically a keyboard." [Fig. 2 and Column 9, Lines 56-58.]

Cookson at Col. 25 lines 9-20 recites:

"The next default setting is language--the sound track dialog language, the subtitle language (if any), and the language in which menus are to be presented on the display. In the United States, for example, the default language would be English. If the user does not inform the player that a language other than English is desired for one or more of these functions, audio language track 10 will be used to generate the sound track, and character strings in the English language will be used in setting up the mixing/deletion menu for the 'other' audio tracks and for the table of contents. As for subtitles, the usual default is 'no language.'" [Col. 25, lines 9-20.]

Cookson at Col. 25 lines 32-40 recites:

"As in many consumer electronic devices, the keyboard can be used by the user at any time to interrogate or control the player. Routine control sequences which are standard in the art are not shown in the flowcharts. For example, the keyboard, or an associated remote control device, can be used to control the volume, fast forward, a jump to a specified chapter, etc. The normal processing can be interrupted to control a display by operating a menu key, as is known in the art." [Col. 25, lines 32-40, emphasis added.]

The Office Action concludes that in Cookson a "User can change language of audio as desired and they can also replay the portion of video by the remote control device." [Final OA, page 2 last 2 lines.] However, the Office Action ignores the fact that in Cookson changing the audio language and rewinding a portion of a video are separate independent "routine control sequences which are standard in the art" and are not functionally integrated in the manner claimed. In Cookson changing the language of the audio is not responsive to a rewinding of the video. In Cookson, as is found in video players known to applicant, a rewinding of a video does not in itself result in the changing of an audio that is responsive to a preestablished audio preference. Nothing in Cookson anticipates or renders obvious a *"receiving, during a playing of a video, a request to replay a portion of the video"* and *"changing, responsive to the replay request and to a preestablished audio preference, an audio of the video"* as each of the outstanding independent claims recites.

Each of the outstanding independent claims further recites: *"discontinuing, responsive to the replay request, the playing of the changed audio"*.

The Office Action rejection of claims 21-40 under 35 U.S.C. 103(a) relies entirely on Cookson, at Col 25 lines 32-40 to disclose or render obvious *"receiving, during a playing of a video, a request to replay a portion of the video"* and *"discontinuing, responsive to the replay request, the playing of the changed audio"* as each of the outstanding independent claims recites.

Again, Cookson at Col. 25 lines 32-40 recites:

"As in many consumer electronic devices, the keyboard can be used by the user at any time to interrogate or control the player. Routine control sequences which are standard in the art are not shown in the flowcharts. For example, the keyboard, or an associated remote control device, can be used to control the volume, fast forward, a jump to a specified chapter, etc. The normal processing can be interrupted to control a display by operating a menu key, as is known in the art." [Col. 25, lines 32-40, emphasis added.]

The Office Action argues that in Cookson a "user can discontinue the playing of the changed audio through remote control or keyboard (col. 25, lines 32-40)." [Final OA, bottom of page 4.] It is respectfully submitted that the Office Action ignores the claimed limitation. Contrary to the Office Action's suggestion, the claims do not call for "discontinuing, responsive to a user interface typically a keyboard to change the audio, the playing of the changed audio". Rather, each of the outstanding independent claims recites in part *"discontinuing, responsive to the replay request, the playing of the changed audio"*. The Office Action disregards synergistically integrated limitations.

The application teaches, and the claims call for, more than the independent capabilities of a video player to replay a video and to change the audio. Even if each of the claimed elements were found present in the applied art, the Office Action does not identify a reason that would have prompted a person of ordinary skill in the art to integrate the elements with changes in the respective functions that are called for by the limitations of the claims. Cookson does not identify a design need, market pressure, or a motivation to solve the problem identified by the application and that the claims address. It is respectfully submitted that the needs and problems addressed by the subject matter claimed is not known or appreciated by Cookson.

Cookson, alone or in combination with the references of record does not teach, suggest, anticipate, or render obvious, teaches away from, does not recognize, much less appreciate the advantages, of the subject matter of each of the outstanding claims.

It is respectfully submitted that Cookson is believed to share the same FIGS., Brief Description of the Drawings, And Description of the Preferred Embodiment with at least 18 other issued U.S. patents and numerous international patents. It is also respectfully submitted that among the plurality of named inventors of Cookson is Mr. Warren N. Lieberfarb, the 20 year president of Warner Home Video. Mr. Lieberfarb is widely recognized as the "father of DVD". It is respectfully submitted that the fact that the prolific inventors of Cookson failed to anticipate and claim the subject matter of the present invention, evidences the non-obvious nature of the subject

matter of the outstanding claims.

Accordingly, since the Office Action does not rely on Schoner to overcome the above identified deficiencies of Cookson, and claims 22-24, 26-29, 31-34, 36-37, and 39-40, are dependent on the independent claims, appellant respectfully requests that the Office Action's rejection of claims 21-40 under 35 U.S.C. 103(a) as being unpatentable over Cookson in view of Schoner should be reversed.

The patentability of each claim is discussed below under separate subheadings as required by 37 CFR 41.37(c)(1)(vii):

INDEPENDENT CLAIM 21

Independent Claim 21 is patentable under 35 U.S.C. § 103(a) over Cookson in view of Schoner. Claim 21 recites:

> *"A method of replaying a portion of a video comprising the steps of:*
> *receiving, during a playing of a video, a request to replay a portion of the video, the portion of the video being responsive to a preestablished amount of time;*
> *changing, responsive to the replay request and to a preestablished audio preference, an audio of the video;*
> *playing, responsive to the replay request, the portion of the video and the changed audio; and*
> *discontinuing, responsive to the replay request, the playing of the changed audio."*

Appellant incorporates, as though fully set forth herein, the Independent Claims remarks above with respect to the failure of Cookson in view Schoner to render obvious the limitations of *"receiving, during a playing of a video, a request to replay a portion of the video"*, *"changing, responsive to the replay request and to a preestablished audio preference, an audio of the video"* and *"discontinuing, responsive to the replay request, the playing of the changed audio"*.

With respect to claim 21's limitation that *"the portion of the video being responsive to a preestablished amount of time"*, the Office Action admits that Cookson fails to disclose it, but argues that Schoner discloses it at col. 12 lines 4-16. [Office Action page 11, lines 1-4]

Schoner at col. 12 lines 4-16 recites:

> "A sleep timer function may also be employed to detect when a user falls asleep during playback. During playback, a visual signal (e.g., an icon) may be periodically displayed (e.g., every 30 minutes) within a portion of display screen 38 of display device 30. The user must respond to the visual signal (e.g., by pressing one or more keys of a keypad of input device 14) within a predetermined amount of time (e.g., 5 minutes) in order for playback to continue. The visual signal may be displayed in, for example, a corner of display screen 38. The time interval between displays of the visual signal are

determined by a first timer. A second timer determines the required response time. Display of the visual signal starts the second timer. The first and second timers may be implemented in hardware or software." [Schoner col. 12 lines 4-16, emphasis added.]

The Office Action fails to appreciate that Schoner is directed at detecting when a user falls asleep during playback, and to <u>continue</u> playback and not to replay a portion of a video if the user responds to a visual signal. In Schoner, the sleep timer function is unrelated to a replaying of portion of a video as is claimed.

Further, Schoner does not render obvious the claimed integration between "*a request to replay a portion of the video, the portion of the video being responsive to a preestablished amount of time;*" and "*playing, responsive to the replay request, the portion of the video and the changed audio*". Nothing in Schoner suggests or render obvious what is being claimed.

Claim 21 recites a useful, novel, and nonobvious invention, that has objectives and offers advantages not anticipated or rendered obvious by Cookson in view of Schoner. The applicable advantages disclosed in the specification are incorporated herein by reference.

For these reasons, appellant traverses the rejection of claim 21, and respectfully submit that the rejection of claim 21 under 35 U.S.C. 103(a) as being unpatentable over Cookson in view of Schoner should be reversed.

INDEPENDENT CLAIM 30

Independent Claim 30 is patentable under 35 U.S.C. § 103(a) over Cookson in view of Schoner. Claim 30 recites:

"*A system capable of replaying a portion of a video comprising:*
a user interface means for receiving, during a playing of a video, a request to replay a portion of the video, the portion of the video being responsive to a preestablished amount of time; and
a processing means for changing, responsive to the replay request and to a preestablished audio preference, an audio of the video; playing, responsive to the replay request, the portion of the video and the changed audio; and discontinuing, responsive to the replay request, the playing of the changed audio."

Appellant incorporates, as though fully set forth herein, the Independent Claims remarks above with respect to the failure of Cookson in view Schoner to render obvious the limitations of "*receiving, during a playing of a video, a request to replay a portion of the video*", "*changing, <u>responsive to the replay request</u> and to a preestablished audio preference, an audio of the video*" and "*discontinuing, <u>responsive to the replay request</u>, the playing of the changed audio*".

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Appellant also incorporates, as though fully set forth herein, the remarks above with respect the *"preestablished amount of time"* limitation of claim 21.

Claim 30 recites a useful, novel, and nonobvious invention, that has objectives and offers advantages not anticipated or rendered obvious by Cookson in view of Schoner. The applicable advantages disclosed in the specification are incorporated herein by reference.

For these reasons, and the additional reasons particular to the system of claim 30, appellant traverses the rejection of claim 30, and respectfully submit that the rejection of claim 30 under 35 U.S.C. 103(a) as being unpatentable over Cookson in view of Schoner should be reversed.

INDEPENDENT CLAIM 25

Independent Claim 25 is patentable under 35 U.S.C. § 103(a) over Cookson in view of Schoner. Claim 25 recites:

> *"A method of replaying a portion of a video comprising the steps of:*
> *receiving, during a playing of a video, a request to replay a portion of the video, the portion of the video being responsive to a preestablished amount of time;*
> *changing, responsive to the replay request and to a preestablished audio preference, an audio of the video;*
> *enabling, responsive to the replay request, a playing of subtitles;*
> *playing, responsive to the replay request, the portion of the video, the changed audio, and the subtitles; and*
> *discontinuing, responsive to the replay request, the playing of the changed audio."*

Appellant incorporates, as though fully set forth herein, the Independent Claims remarks above with respect to the failure of Cookson in view Schoner to render obvious the limitations of *"receiving, during a playing of a video, a request to replay a portion of the video"*, *"changing, responsive to the replay request and to a preestablished audio preference, an audio of the video"* and *"discontinuing, responsive to the replay request, the playing of the changed audio"*.

While the Office Action fails to address the *"preestablished amount of time"* limitation of claim 25, appellant also incorporates, as though fully set forth herein, the remarks above with respect the *"preestablished amount of time"* limitation of claim 21.

With respect to claim 25's limitation of *"enabling, responsive to the replay request, a playing of subtitles"*, the Office Action argues that Cookson discloses the limitation at Fig. 5, col. 26 lines 43-col. 27 lines 44. [Office Action page 12.]

The Office Action fails to point out with particularly where Cookson recites *"enabling, responsive to the replay request, a playing of subtitles"*, and *"playing, responsive to the replay*

request, the portion of the video, the changed audio, and the subtitles". Cookson does not disclose or render obvious enabling and playing the subtitles in response to a replay request.

Claim 25 recites a useful, novel, and nonobvious invention, that has objectives and offers advantages not anticipated or rendered obvious by Cookson in view of Schoner. The applicable advantages disclosed in the specification are incorporated herein by reference.

For these reasons, appellant traverses the rejection of claim 25, and respectfully submit that the rejection of claim 25 under 35 U.S.C. 103(a) as being unpatentable over Cookson in view of Schoner should be reversed.

INDEPENDENT CLAIM 35

Independent Claim 35 is patentable under 35 U.S.C. § 103(a) over Cookson in view of Schoner. Claim 35 recites:

> *"A method of replaying a portion of a video comprising the steps of:*
> *receiving, during a playing of a video, a request to replay a portion of the video, the portion of the video being responsive to a preestablished amount of time;*
> *changing, responsive to the replay request and to a preestablished audio preference, an audio of the video, the changing comprising utilizing a commentary audio;*
> *playing, responsive to the replay request, the portion of the video and the changed audio; and*
> *discontinuing, responsive to the replay request, the playing of the changed audio."*

Appellant incorporates, as though fully set forth herein, the Independent Claims remarks above with respect to the failure of Cookson in view Schoner to render obvious the limitations of *"receiving, during a playing of a video, a request to replay a portion of the video"*, *"changing, responsive to the replay request and to a preestablished audio preference, an audio of the video"* and *"discontinuing, responsive to the replay request, the playing of the changed audio"*.

Appellant also incorporates, as though fully set forth herein, the remarks above with respect the *"preestablished amount of time"* limitation of claim 21.

The Office Action, at page 13, paragraph 37, recites that "Claim 35 is rejected for the same reason discussed in the corresponding claim 25 above." However, claim 25 includes the limitation of *"enabling, responsive to the replay request, a playing of subtitles"* which is not included in claim 35; and claim 25 does not includes the limitation of *"changing, responsive to the replay request and to a preestablished audio preference, an audio of the video, the changing comprising utilizing a commentary audio"*, which is included in claim 35.

The Office Action fails to point out with particularity where Cookson recites or renders

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obvious *"changing, responsive to the replay request and to a preestablished audio preference, an audio of the video, the changing comprising utilizing a commentary audio"*. Cookson does not disclose or render obvious the particular subject matter claimed.

Claim 35 recites a useful, novel, and nonobvious invention, that has objectives and offers advantages not anticipated or rendered obvious by Cookson in view of Schoner. The applicable advantages disclosed in the specification are incorporated herein by reference.

For these reasons, appellant traverses the rejection of claim 35, and respectfully submit that the rejection of claim 35 under 35 U.S.C. 103(a) as being unpatentable over Cookson in view of Schoner should be reversed.

INDEPENDENT CLAIM 38

Independent Claim 38 is patentable under 35 U.S.C. § 103(a) over Cookson in view of Schoner. Claim 38 recites:

> *"A system capable of replaying a portion of a video comprising:*
> *a user interface means for receiving, during a playing of a video, a request to replay a portion of the video, the portion of the video being responsive to a preestablished amount of time; and*
> *a processing means for changing, responsive to the replay request and to a preestablished audio preference, an audio of the video, the changing comprising utilizing a commentary audio; playing, responsive to the replay request, the portion of the video and the changed audio; and discontinuing, responsive to the replay request, the playing of the changed audio."*

Appellant incorporates, as though fully set forth herein, the Independent Claims remarks above with respect to the failure of Cookson in view Schoner to render obvious the limitations of *"receiving, during a playing of a video, a request to replay a portion of the video"*, *"changing, responsive to the replay request and to a preestablished audio preference, an audio of the video"* and *"discontinuing, responsive to the replay request, the playing of the changed audio"*.

Appellant also incorporates, as though fully set forth herein, the remarks above with respect the *"preestablished amount of time"* limitation of claim 21.

The Office Action, at page 14, paragraph 40, recites that "Claim 38 is rejected for the same reason discussed in the corresponding claim 30 above." The Office Action, at page 13, paragraph 32, recites that "Claim 30 is rejected for the same reason discussed in the corresponding claim 21 above." Thus, claim 38 stands rejected for the same reasons discussed in the corresponding claim 21.

However, claim 21, in addition to being a method claim and not a system claim, <u>does not</u> includes the limitation of "*<u>changing, responsive to the replay request</u> and to a preestablished audio preference, an audio of the video, the <u>changing comprising utilizing a commentary audio</u>*", which is included in claim 38.

The Office Action fails to point out with particularity where Cookson recites or renders obvious the system of claim 38 which comprises processing means for "*changing, <u>responsive to the replay request and to a preestablished audio preference</u>, an audio of the video, the <u>changing comprising utilizing a commentary audio</u>*". Cookson does not disclose or render obvious the particular subject matter claimed.

Claim 35 recites a useful, novel, and nonobvious invention, that has objectives and offers advantages not anticipated or rendered obvious by Cookson in view of Schoner. The applicable advantages disclosed in the specification are incorporated herein by reference.

For these reasons, appellant traverses the rejection of claim 35, and respectfully submit that the rejection of claim 35 under 35 U.S.C. 103(a) as being unpatentable over Cookson in view of Schoner should be reversed.

DEPENDENT CLAIMS 24, 27, 33, 36, and 39

Dependent claims 24, 27, 33, 36, and 39 are patentable under 35 U.S.C. § 103(a) over Cookson in view of Schoner.

Claims 24, 27, and 33 recite in part:

"*wherein the portion of the video is also responsive to information defining segments of the video.*"

Claims 36 and 39 recite in part:

"*wherein the portion of the video is responsive to information defining segments of the video.*"

The application teaches, for example, that:

A request position and/or a replay position may advantageously be responsive to a previously defined amount in the context of, or adjusted by, a video map or other available segment information 1216 identifying a logical or appropriate location in the video, e.g., chapter stops, scene definitions, and/or beginning segment information. For example, if the viewer specific previously defined amount of time for a replay position is 25 seconds, but the beginning of the segment, as defined by the video map or chapter definitions, is at 24 seconds in one instance and 28 seconds in a second instance, the skipping back takes in consideration this information and adjusts 1217 the skipping back to the 24 seconds or 28 seconds points respectively (beginning of segment or chapter) instead of the 25 seconds

point. [Specification page 70, lines 6-14.]

Appellant incorporates, as though fully set forth herein, the remarks above with respect to the corresponding independent claims.

In the context of its independent claim, claim 24, for example, recites in part *"receiving, during a playing of a video, a request to replay a portion of the video, the portion of the video being responsive to a preestablished amount of time"* and *"wherein the portion of the video is also responsive to information defining segments of the video."*

In rejecting dependent claims 24, 27, 33, 36, and 39, the Office Action merely cites Fig. 3 (field 19), Col. 19 lines 31-66, Col. 25 lines 9-20, 32-40. [Office Action Page 12, paragraph 26.] The Office Action fails to point out just how Cookson's Fig. 3 (field 19), Col. 19 lines 31-66, Col. 25 lines 9-20, 32-40 relate to the subject matter being claimed. The Office Action has failed to point out just what in Cookson renders obvious the limitation of a portion of the video that is responsive to both *"a preestablished amount of time"* and *"information defining segments of the video"*.

Claims 24, 27, 33, 36, and 39 recite useful, novel, and nonobvious inventions, that have objectives and offers advantages not anticipated or rendered obvious by Cookson in view of Schoner. The applicable advantages disclosed in the specification are incorporated herein by reference.

For these reasons, appellant traverses the rejection of claims 24, 27, 33, 36, and 39, and respectfully submit that the rejection of claims 24, 27, 33, 36, and 39 under 35 U.S.C. 103(a) as being unpatentable over Cookson in view of Schoner should be reversed.

DEPENDENT CLAIMS 22, 23, 29, and 31

Dependent claims 22, 23, 29 and 31 are patentable under 35 U.S.C. § 103(a) over Cookson in view of Schoner.

Claims 22, 23, and 31 recite in part:

"wherein the changed audio is selected from the group consisting of the audio at an increased volume, the audio with an increased dialog audio volume, the audio with an increased dialog audio volume relatively to a background audio volume, and the audio utilizing an alternative dialog audio language."

Claim 29 recites in part:

"wherein the changed audio comprises increasing a dialog audio volume relatively to a background audio volume."

The application teaches, for example, that:

Further, supplementary information is any information, e.g. subtitles, data, and/or bits which may be utilized to elucidate, illuminate, illustrate, clarify, and/or explain, during a replay, a portion of a video, and/or may be advantageously utilized in a replay of a segment of a video. Wherever the term "subtitles" appears herein, it ought to be understood to mean, and be an example of, supplementary information. Alternatively, or additionally, responsive to a viewer's preference, a playing of supplementary information consists of, or comprises, increasing the audio volume, and/or, for example, increasing the dialog audio absolutely and/or relatively to the background audio during a replaying of a segment. [Specification page 72, lines 21-29.]

Appellant incorporates, as though fully set forth herein, the remarks above with respect to the corresponding independent claims.

In the context of its independent claim, claim 29, for example, recites in part *"changing, responsive to the replay request and to a preestablished audio preference, an audio of the video"* and *"wherein the changed audio comprises increasing a dialog audio volume relatively to a background audio volume."*

In rejecting this limitation of dependent claims 22, 23, 29 and 31, the Office Action merely cites Cookson's Col. 25 lines 9-20, 32-40. [Office Action Page 11, paragraph 25.]

Cookson at Col. 25 lines 9-20 recites:

"The next default setting is language--the sound track dialog language, the subtitle language (if any), and the language in which menus are to be presented on the display. In the United States, for example, the default language would be English. If the user does not inform the player that a language other than English is desired for one or more of these functions, audio language track 10 will be used to generate the sound track, and character strings in the English language will be used in setting up the mixing/deletion menu for the 'other' audio tracks and for the table of contents. As for subtitles, the usual default is 'no language.'" [Col. 25, lines 9-20.]

Cookson at Col. 25 lines 32-40 recites:

"As in many consumer electronic devices, the keyboard can be used by the user at any time to interrogate or control the player. Routine control sequences which are standard in the art are not shown in the flowcharts. For example, the keyboard, or an associated remote control device, can be used to control the volume, fast forward, a jump to a specified chapter, etc. The normal processing can be interrupted to control a display by operating a menu key, as is known in the art." [Col. 25, lines 32-40.]

The Office Action has failed to point out just what in Cookson suggests or renders obvious,

for example, a limitation that recites in part *"changing, responsive to the replay request and to a preestablished audio preference, an audio of the video"* and *"wherein the changed audio comprises increasing a dialog audio volume relatively to a background audio volume."*

Claims 22, 23, 29 and 31 recite useful, novel, and nonobvious inventions, that have objectives and offers advantages not anticipated or rendered obvious by Cookson in view of Schoner. The applicable advantages disclosed in the specification are incorporated herein by reference.

For these reasons, appellant traverses the rejection of claims 22, 23, 29 and 31, and respectfully submit that the rejection of claims 22, 23, 29 and 31 under 35 U.S.C. 103(a) as being unpatentable over Cookson in view of Schoner should be reversed.

DEPENDENT CLAIMS 34 and 40

Dependent claims 34 and 40 are patentable under 35 U.S.C. § 103(a) over Cookson in view of Schoner.

Claims 34 and 40 recite in part:

"wherein the portion of the video is cumulative responsive to a successive replay request".

The application teaches, for example, that:

> The rewinding of the video is cumulative responsive to multiple successive activation of the What? function, e.g., a contemporaneous subsequent replay request 1214. For example, if the viewer has pressed the What? button in the remote control twice within a substantially simultaneous time, e.g., two seconds, the Multimedia Player would cause the skip back position or amount to be augmented 1215 to 60 seconds, i.e. twice the viewer specific previously defined amount of 30 seconds. In other words, the distance or time that is replayed is increased by the addition 1215 of the amount required for a single replay request for each contemporaneously received successive replay request 1214.
>
> In the event that during an active replay function, but after a substantially simultaneous time, a new replay request is received, then the initial replay request is terminated, and the new replay request is executed responsive to the new request's request position. [Specification page 69, line 24 to page 70 line 5.]

Appellant incorporates, as though fully set forth herein, the remarks above with respect to the corresponding independent claims.

In the context of its independent claim, claim 34, for example, recites in part *"receiving, during a playing of a video, a request to replay a portion of the video, the portion of the video being responsive to a preestablished amount of time;"* and *"wherein the portion of the video is cumulative responsive to a successive replay request."*

In rejecting this limitation of dependent claims 34 and 40, the Office Action refers to Claim 23 which merely cites Cookson's Col. 25 lines 9-20, 32-40. [Office Action page 13 paragraph 36, page 14 paragraph 42, and page 11, paragraph 25.]

Again Cookson at Col. 25 lines 9-20 recites:

"The next default setting is language--the sound track dialog language, the subtitle language (if any), and the language in which menus are to be presented on the display. In the United States, for example, the default language would be English. If the user does not inform the player that a language other than English is desired for one or more of these functions, audio language track 10 will be used to generate the sound track, and character strings in the English language will be used in setting up the mixing/deletion menu for the 'other' audio tracks and for the table of contents. As for subtitles, the usual default is 'no language.'" [Col. 25, lines 9-20.]

Cookson at Col. 25 lines 32-40 recites:

"As in many consumer electronic devices, the keyboard can be used by the user at any time to interrogate or control the player. Routine control sequences which are standard in the art are not shown in the flowcharts. For example, the keyboard, or an associated remote control device, can be used to control the volume, fast forward, a jump to a specified chapter, etc. The normal processing can be interrupted to control a display by operating a menu key, as is known in the art." [Col. 25, lines 32-40.]

The Office Action has failed to point out just what in Cookson suggests or renders obvious, for example, a limitation that recites in part "*receiving, during a playing of a video, a request to replay a portion of the video, the portion of the video being responsive to a preestablished amount of time;*" and "*wherein the portion of the video is cumulative responsive to a successive replay request.*"

Claims 34 and 40 recite useful, novel, and nonobvious inventions, that have objectives and offers advantages not anticipated or rendered obvious by Cookson in view of Schoner. The applicable advantages disclosed in the specification are incorporated herein by reference.

For these reasons, appellant traverses the rejection of claims 34 and 40, and respectfully submit that the rejection of claims 34 and 40 under 35 U.S.C. 103(a) as being unpatentable over Cookson in view of Schoner should be reversed.

DEPENDENT CLAIMS 26 and 28

Dependent claims 26 and 28 are patentable under 35 U.S.C. § 103(a) over Cookson in view of Schoner.

Claim 26 recites in part:

"wherein the subtitles are in a different language than the language of the audio".

Claim 28 recites in part:

"wherein the changed audio comprises changing the audio language."

Appellant incorporates, as though fully set forth herein, the remarks above with respect to the corresponding independent claims.

In the context of its independent claim, claim 26, for example, recites in part *"receiving, during a playing of a video, a request to replay a portion of the* video"..."*enabling, responsive to the replay request, a playing of subtitles";* and *"wherein the subtitles are in a different language than the language of the audio."*

In rejecting these limitation of dependent claims 26 and 28, the Office Action again merely cites Cookson's Col. 25 lines 9-20, 32-40. [Office Action page 12 paragraph 28, page 13 paragraph 30, and page 11 paragraph 24.]

The Office Action continued reliance on Cookson's Col. 25 lines 9-20, 32-40 for the independent claims as well as for dependent claims ignores the particular limitations of the claims.

Claims 26 and 28 recite useful, novel, and nonobvious inventions, that have objectives and offers advantages not anticipated or rendered obvious by Cookson in view of Schoner. The applicable advantages disclosed in the specification are incorporated herein by reference.

For these reasons, appellant traverses the rejection of claims 26 and 28, and respectfully submit that the rejection of claims 26 and 28 under 35 U.S.C. 103(a) as being unpatentable over Cookson in view of Schoner should be reversed.

DEPENDENT CLAIMS 32 and 37

Dependent claims 32, and 37 are patentable under 35 U.S.C. § 103(a) over Cookson in view of Schoner.

Claim 32 recites in part:

"wherein, responsive to the replay request, a playing of subtitles is enabled for playing the subtitles responsive to the replay request and the subtitles."

Claim 37 recites in part:

"wherein, responsive to the replay request, a playing of subtitles is enabled for playing the subtitles responsive to the replay request".

In rejecting the limitation of dependent claims 32 and 37, the Office Action refers back to

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independent claim 25. [Office Action page 13 paragraphs 34 and 39.] Again, The Office Action fails to point out where Cookson in view of Schoner suggests or renders obvious the subject matter of the dependent claim.

Appellant incorporates, as though fully set forth herein, the remarks above with respect to independent claim 25.

Claims 32 and 37 recite useful, novel, and nonobvious inventions, that have objectives and offers advantages not anticipated or rendered obvious by Cookson in view of Schoner. The applicable advantages disclosed in the specification are incorporated herein by reference.

For these reasons, appellant traverses the rejection of claims 32 and 37, and respectfully submit that the rejection of claims 32 and 37 under 35 U.S.C. 103(a) as being unpatentable over Cookson in view of Schoner should be reversed.
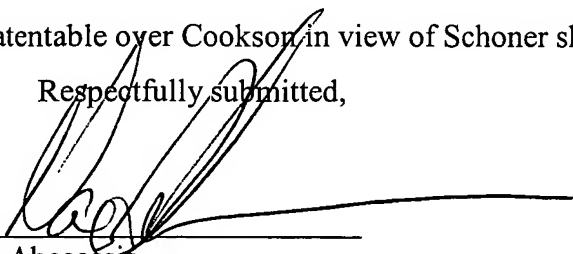
CONCLUSION

Appellant has attempted to diligently respond to each of the principal issues raised by the Office Action. If a particular assertion or remark in the Office Action is deemed not to be directly or indirectly addressed, it should not be interpreted as indicating agreement with such an assertion or remark. For purposes of presentation, the remarks have been provided in as simple a manner as possible, and do not embody the richness or breadth of the specification of the present inventions.

It is respectfully submitted that the 21 lines of Cookson's often and carelessly applied citation at Col. 25 lines 9-20, 32-40 simply do not have a enough words to anticipate, suggest, or render obvious the multiple limitations of the various independent and dependent claims to which the Office Action has applied the citation. Nothing in Cookson's Col. 25 lines 9-20, 32-40, suggests or renders obvious alone or with the combination with Schoner, the particular subject matter of each of the limitations of the independent and dependent claims to which the Office Action has applied the citation.

It is respectfully submitted that the Office Action's rejection of claims 21-40 under 35 U.S.C. 103(a) as being unpatentable over Cookson in view of Schoner, ignores limitations in the claims, fails to appreciate the claimed operational functional integration between the various elements of the claims, relies on Cookson in view of Schoner to teach limitations which neither Cookson and Schoner alone or in combination teach or render obvious, and requires a combination of Cookson and Schoner that is improper and not supported by the argument that the Office Action offers.

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Accordingly, for these reasons and the reasons above presented, appellant respectfully requests that the Office Action's rejection of claims 21-40 under 35 U.S.C. 103(a) as being unpatentable over Cookson in view of Schoner should be reversed.
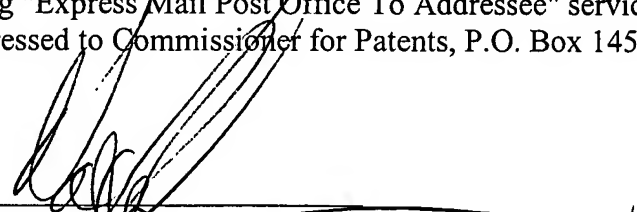
Respectfully submitted,

Max Abecassis
Appellant
Phone: 561-470-1181

Dated: 3-21-2002

CERTIFICATE OF MAILING

Express Mail Label #_EB 8737197_   US; Deposited: _3-21-08_
I hereby certify that this Appeal Brief is being deposited with the United States Postal Service using "Express Mail Post Office To Addressee" service on the date indicated above and is addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

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Max Abecassis

CLAIMS APPENDIX

21. A method of replaying a portion of a video comprising the steps of:

receiving, during a playing of a video, a request to replay a portion of the video, the portion of the video being responsive to a preestablished amount of time;

changing, responsive to the replay request and to a preestablished audio preference, an audio of the video;

playing, responsive to the replay request, the portion of the video and the changed audio; and

discontinuing, responsive to the replay request, the playing of the changed audio.

22. The method of claim 21 wherein the changed audio is selected from the group consisting of the audio at an increased volume, the audio with an increased dialog audio volume, the audio with an increased dialog audio volume relatively to a background audio volume, and the audio utilizing an alternative dialog audio language; and wherein the portion of the video is cumulative responsive to a successive replay request.

23. The method of claim 21 wherein the changed audio is selected from the group consisting of the audio at an increased volume, the audio with an increased dialog audio volume, the audio with an increased dialog audio volume relatively to a background audio volume, and the audio utilizing an alternative dialog audio language.

24. The method of claim 21 wherein the portion of the video is also responsive to information defining segments of the video.

25. A method of replaying a portion of a video comprising the steps of:

receiving, during a playing of a video, a request to replay a portion of the video, the portion of the video being responsive to a preestablished amount of time;

changing, responsive to the replay request and to a preestablished audio preference, an audio of the video;

enabling, responsive to the replay request, a playing of subtitles;

playing, responsive to the replay request, the portion of the video, the changed audio, and the subtitles; and

discontinuing, responsive to the replay request, the playing of the changed audio.

26. The method of claim 25 wherein the subtitles are in a different language than the language of the audio.

27. The method of claim 25 wherein the portion of the video is also responsive to information defining segments of the video.

28. The method of claim 25 wherein the changed audio comprises changing the audio language.

29. The method of claim 25 wherein the changed audio comprises increasing a dialog audio volume relatively to a background audio volume.

30. A system capable of replaying a portion of a video comprising:

a user interface means for receiving, during a playing of a video, a request to replay a portion of the video, the portion of the video being responsive to a preestablished amount of time; and

a processing means for changing, responsive to the replay request and to a preestablished audio preference, an audio of the video; playing, responsive to the replay request, the portion of the video and the changed audio; and discontinuing, responsive to the replay request, the playing of the changed audio.

31. The system of claim 30 wherein the changed audio is selected from the group consisting of the audio at an increased volume, the audio with an increased dialog audio volume, the audio with an increased dialog audio volume relatively to a background audio volume, and the audio utilizing an alternative dialog audio language.

32. The system of claim 30 wherein, responsive to the replay request, a playing of subtitles

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is enabled for playing the subtitles responsive to the replay request and the subtitles.

33. The system of claim 30 wherein the portion of the video is also responsive to information defining segments of the video.

34. The system of claim 30 wherein the portion of the video is cumulative responsive to a successive replay request.

35. A method of replaying a portion of a video comprising the steps of:

receiving, during a playing of a video, a request to replay a portion of the video, the portion of the video being responsive to a preestablished amount of time;

changing, responsive to the replay request and to a preestablished audio preference, an audio of the video, the changing comprising utilizing a commentary audio;

playing, responsive to the replay request, the portion of the video and the changed audio; and

discontinuing, responsive to the replay request, the playing of the changed audio.

36. The method of claim 35 wherein the portion of the video is responsive to information defining segments of the video.

37. The method of claim 35 wherein, responsive to the replay request, a playing of subtitles is enabled for playing the subtitles responsive to the replay request.

38. A system capable of replaying a portion of a video comprising:

a user interface means for receiving, during a playing of a video, a request to replay a portion of the video, the portion of the video being responsive to a preestablished amount of time; and

a processing means for changing, responsive to the replay request and to a preestablished audio preference, an audio of the video, the changing comprising utilizing a commentary audio; playing, responsive to the replay request, the portion of the video and the changed audio; and discontinuing, responsive to the replay request, the playing of the changed audio.

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39. The system of claim 38 wherein the portion of the video is responsive to information defining segments of the video.

40. The system of claim 38 wherein the replay position is responsive to a preestablished replay preference; and wherein, responsive to the replay request, a playing of subtitles is enabled contemporaneously with the playing of the changed audio portion of the video is cumulative responsive to a successive replay request.